

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>BRUCE O. HILL</b>	)	
Claimant	)	
VS.	)	
	)	Docket Nos. 228,595
<b>INTERNATIONAL PAPER COMPANY</b>	)	& 239,212
<b>SOUTHERN BAG CORPORATION</b>	)	
Respondent	)	
AND	)	
	)	
<b>SELF-INSURED</b>	)	
<b>LUMBERMEN'S UNDERWRITING ALLIANCE</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent Southern Bag Corporation and its insurance carrier, Lumbermen's Underwriting Alliance, appeal from a preliminary hearing Order entered by Administrative Law Judge Steven J. Howard on January 20, 1999.

**ISSUES**

Claimant has brought two claims alleging injury to his low back. The first is against International Paper Company alleging a single date of accident of January 8, 1997. Southern Bag Corporation took over the plant where claimant was working on September 1, 1997. Claimant's second claim alleges repetitive trauma injury to his low back beginning September 1, 1997. Claimant seeks medical treatment and the ALJ ordered respondent Southern Bag to provide that treatment. On appeal, Southern Bag argues that the evidence does not establish claimant suffered any accidental injury in the course of his employment with Southern Bag. Southern Bag asserts that responsibility for the treatment should be assigned to International Paper where claimant suffered his original back injury or, in the alternative, Southern Bag contends that claimant injured his back in activities away from work.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes that the Order should be reversed.

In Docket No. 228,595, claimant alleges injury to his low back on January 8, 1997, arising out of and in the course of his employment for International Paper. International Paper admits that claimant suffered a compensable low back injury on that date and provided medical treatment through some time in August 1997. During the course of that treatment, it was determined claimant suffered a herniated disc. His treating doctor, Dr. William J. Sullivan, released claimant to return to work with restrictions on July 24, 1997. The restrictions limited claimant to lifting 20 to 50 pounds occasionally, 10 to 20 pounds frequently, and no greater than 10 pounds on a constant basis. The restrictions allowed claimant to continue to perform his regular job as a clamp truck driver without any accommodation. Claimant did not miss time from work because of his injury either while he was employed at International Paper or subsequently when employed by Southern Bag.

Claimant testified that when Southern Bag took over the company on September 1, 1997, he continued in the same job as a clamp truck driver. He testified that the driving caused him to suffer symptoms. He became stiff and sore. Claimant insisted that the symptoms were essentially constant from the day of his original injury in January 1997. Sometimes they were worse and sometimes they were better, but in general they remained essentially the same. The only evidence that could be read as evidence that claimant's symptoms worsened was claimant's answer to a leading question that asked what activities caused his symptoms to worsen. In response, claimant testifies to his driving over bumpy surfaces. Nevertheless, as a whole, the evidence appears most logically to indicate that, from claimant's point of view, his symptoms did not worsen after he became employed with Southern Bag. No medical evidence suggests otherwise. The Board concludes that claimant has not established from the evidence presented to date any injury arising out of and in the course of his employment with Southern Bag.

Both Southern Bag and International Paper point to claimant's activities off the job as possible cause of the current symptoms. Southern Bag has presented videotapes of claimant engaging in activities which claimant admits exceeded the medical restrictions. The claimant insists that his activities have not made his symptoms permanently worse. Throughout he testifies consistently that his symptoms have simply persisted since the original accident in January 1997.

The record presented to the Board does not reflect what kind of accident occurred in January 1997. The pleadings and testimonies generally indicate it was a single event. Claimant alleges only a single date of accident. This does not appear to be a case of repetitive trauma with claimant's condition worsening each working day. In general, the evidence reflects that the symptoms have persisted essentially unchanged since that original injury. Claimant asks for medical treatment to address those continuing symptoms.

The Board finds, based on the above evidence, that International Paper should be responsible for the medical treatment which the ALJ ordered.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Steven J. Howard on January 20, 1999, should be, and the same is hereby, reversed. Respondent International Paper is ordered to provide the medical treatment which the ALJ had ordered Southern Bag and its insurance carrier to provide.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 1999.

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BOARD MEMBER

c: William L. Phalen, Pittsburg, KS  
Frederick J. Greenbaum, Kansas City, KS  
Michael J. Haight, Overland Park, KS  
Steven J. Howard, Administrative Law Judge  
Philip S. Harness, Director